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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY. DOCKET NO.
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09/186,741

11/05/98

EBERLE

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HWE-105C

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PM82/0819

EXAMINER

LEV, B

ART UNIT

PAPER NUMBER

3634

DATE MAILED:

08/19/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/186,741

Applicant(s)
Eberle III

Examiner
Bruce A. Lev

Group Art Unit
3634



☒ Responsive to communication(s) filed on Nov 5, 1998

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-17 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-17 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☒ The drawing(s) filed on Nov 5, 1998 is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 1

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the vertical extended member extending downward from said vertical support member...containing at least one cut out, as set forth in claim 4, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: "115". Correction is required.
3. Applicant is required to submit a proposed drawing correction in reply to this Office action. However, formal correction of the noted defect can be deferred until the application is allowed by the examiner.

Specification

4. Applicant is reminded of the proper language and format for an abstract of the disclosure. The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 250 words. It is important that the abstract not exceed 250 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "**invention**", "means", and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

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The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

5. The disclosure is objected to because of the following informalities:

On page 2, line 5, the phrase --now abandoned-- should appear after "08/811,898".

Furthermore, on page 28, line 2, "203" should read --103--.

Claim Objections

6. Claims 1-17 are objected to because of the following informalities:

As concerns claim 1, the phrase "for joinder", in line 13, is objected to. A more appropriate phrase would be "for joining".

As concerns claim 4, the phrase "there one", in line 2, is objected to.

As concerns claims 8 and 10, the phrase "uni-structurally formed", i.e., claim 8, line 3, is objected to. A more appropriate phrase would be "unitarily formed" or "formed as one piece".

Claim Rejections - 35 USC § 112

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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8. Claim 4 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

A “vertical extended member extending downward from said vertical support member...containing at least one cut out”, in claim 4, lines 2-5, has not been set forth in the specification. This claim **cannot be further treated on the merits**.

9. Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As concerns claims 1 and 3, the phrase “substantially”, i.e., claim 1, lines 3 and 7, renders the claim as vague and indefinite. Further, the phrase “horizontal top element”, in lines 3-4, is vague and indefinite since it is not clear as to what the top element is horizontal to. Further, the phrase “biscuit-shaped”, in line 4, is vague and indefinite since it is unclear as to the definite shape of a biscuit. Further, the phrase “*imaginary* center line”, in line 6, is vague and indefinite since an *imaginary* structural element cannot be claimed. Furthermore, the phrase, “the underside”, in line 8, lacks antecedent basis and is therefore vague and indefinite.

As concerns claim 3, the phrase “located on opposite *sides* of said...screwwhole”, in lines 7-8, is vague and indefinite since it is unclear as to what *sides* are being referred to, i.e. left-right, up-down, in-out.

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As concerns claim 9, the phrase “vertical support members, they are located opposite one another”, in lines 2-3, is vague and indefinite since it is unclear as to what reference point they are opposite with respect to.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1-3, 8-10, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Ellinwood 2,362,252.

As concerns claim 1, Ellinwood sets forth an anchoring biscuit device comprising a first substantially flat horizontal top element having a generally biscuit-shaped top view configuration, inclusive of members 25, and having an imaginary center line; at least one substantially vertical support member, inclusive of member 24, attached to the underside of the top member along the imaginary center line and extending downward therefrom for a predetermined length; and an attachment orifice, inclusive of member 31, located on at least the top element.

As concerns claim 2, Ellinwood sets forth the attachment orifice being at least one screw hole (viewed as such since a screw can extend through the hole).

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As concerns claim 3, Ellinwood sets forth the screw hole located *substantially* in the center of the top element, and two vertical support members (viewed as two distal side portions of member 24) being substantially flat, being in the same plane, and each being located on opposite sides of the screw hole.

As concerns claim 8, Ellinwood sets forth the top element and the vertical support member are uni-structurally formed.

As concerns claim 9, Ellinwood sets forth the two vertical support members being located opposite one another and on each side of the orifice.

As concerns claim 10, Ellinwood sets forth the top element and the two vertical support member are uni-structurally formed.

As concerns claim 14, Ellinwood sets forth a single vertical support member being located offcenter and to one side of the attachment orifice (best illustrated in Figures 2-4).

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 5-7, 11-13, and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellinwood in view of German Patent 372,483.

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Ellinwood sets forth the anchoring biscuit except for the attachment orifice having a beveled top, and being non-circular and elongated. However, German Patent 372,483 teaches an anchoring device, inclusive of members d and e, having a beveled top, and being non-circular and elongated. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the attachment orifice of Ellinwood by forming it having a beveled top, and being non-circular and elongated, as taught by German Patent 372,483, in order to increase the friction between the head of an attachment screw and the attachment orifice, and to allow the alignment of the attachment screw to be adjusted to thereby increase the strength of the connection between the anchoring biscuit and the adjoined boards.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following references disclose anchoring devices for joining boards incorporating attachment orifices having beveled tops, and being non-circular and elongated:

5,071,280	Turner	403/232.1
5,160,211	Gilb	403/232.1x
5,419,649	Gilb	403/232.1x
5,564,248	Callies	403/232.1x
5,603,580	Leek et al	403/232.1

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bruce A. Lev whose telephone number is (703) 308-7470.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-2168.

August 17, 1999

A handwritten signature in black ink, appearing to be 'BRUCE A. LEV' in a stylized, cursive script.

Bruce A. Lev

Patent Examiner

Group 3600